

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

EZEKIEL DAVIS,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-21-0577-HE
)	
GEO GROUP, INC., <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Ezekiel Davis, a state prisoner appearing *pro se*, filed this § 1983 action alleging violation of his constitutional rights and deliberate indifference to his medical needs. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to Magistrate Judge Suzanne Mitchell for initial proceedings. Judge Mitchell has issued a Report and Recommendation recommending that plaintiff's motion to proceed *in forma pauperis* ("IFP") be denied because he has acquired at least three strikes under 28 U.S.C. § 1915(g) before filing this case and has not shown that he is in imminent danger of serious physical injury. Plaintiff has objected to the Report which triggers *de novo* review of the matters to which objection has been made.

Plaintiff's objection alleges that he has adequately pled that he is in imminent danger of serious physical injury. The complaint alleges that he: (1) submitted sick call slips stating his serious medical conditions and sensitivity to certain medications; (2) missed two medical appointments because he received notices for the appointments after the date of the appointments; (3) was denied of the continuity of care for his serious medical

conditions; (4) submitted medical slips stating that his preferred medications were discontinued while he was housed in a different correctional facility; (5) was injured intentionally when his blood was drawn; (6) was improperly restrained and pepper sprayed by guards on two occasions, and (7) served food not fit for human consumption.

A prisoner with three strikes may proceed IFP “if he makes specific credible allegations of imminent danger of serious physical harm.” Boles v. Colorado Dep’t of Corr., 794 Fed. Appx. 767, 770 (10th Cir. 2019) (quotations and citation omitted). Such allegations “must not be vague and utterly conclusory.” *Id.* The court concludes that plaintiff has not made specific credible allegations of imminent danger sufficient to qualify to proceed IFP. While he makes allegations of serious incidents in the past, he has not adequately identified the “nature of the serious physical injury he asserts is imminent.” *Id.*

Accordingly, the Report and Recommendation [Doc. #6] is **ADOPTED**, and plaintiff’s Motion to Proceed IFP [Doc. #2] is denied. Plaintiff shall pay the full filing fee for this action within **twenty-one (21) days**, or this case will be subject to dismissal without prejudice.

IT IS SO ORDERED.

Dated this 1st day of July, 2021.



JOE HEATON
UNITED STATES DISTRICT JUDGE